



Patent  
Attorney's Docket No. 017753-146

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of )  
Monika LUSKY *et al.* ) Group Art Unit: 1636  
Application No.: 09/867,475 ) Examiner: Gerald G. Leffers, Jr.  
Filed: May 31, 2001 ) Confirmation No.: 7808  
For: CHIMERIC ADENOVIRAL VECTORS )

TECH CENTER 1600/2900

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**AMENDMENT/REPLY TRANSMITTAL LETTER**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Enclosed is a reply for the above-identified patent application.

- ☐ A Petition for Extension of Time is also enclosed.
- ☐ A Terminal Disclaimer and a check for ☐ \$55.00 (248) ☐ \$110.00 (148) to cover the requisite Government fee are also enclosed.
- ☐ Also enclosed is \_\_\_\_\_.
- ☐ Small entity status is hereby claimed.
- ☐ Applicant(s) request continued examination under 37 C.F.R. § 1.114 and enclose the ☐ \$370.00 (279) ☐ \$740.00 (179) fee due under 37 C.F.R. § 1.17(e).
- ☐ Applicant(s) previously submitted \_\_\_, on \_\_\_, for which continued examination is requested.
- ☐ Applicant(s) request suspension of action by the Office until at least \_\_\_, which does not exceed three months from the filing of this RCE, in accordance with 37 C.F.R. § 1.103(c). The required fee under 37 C.F.R. § 1.17(i) is enclosed.
- ☐ A Request for Entry and Consideration of Submission under 37 C.F.R. § 1.129(a) (146/246) is also enclosed.
- ☒ No additional claim fee is required.
- ☐ An additional claim fee is required, and is calculated as shown below:

AMENDED CLAIMS					
	NO. OF CLAIMS	HIGHEST NO. OF CLAIMS PREVIOUSLY PAID FOR	EXTRA CLAIMS	RATE	ADDT'L FEE
Total Claims	35	MINUS 35 =	0	× \$18.00 (103) =	0.00
Independent Claims	2	MINUS 3 =	0	× \$84.00 (102) =	0.00
If Amendment adds multiple dependent claims, add \$280.00 (104)					
Total Amendment Fee					0.00
If small entity status is claimed, subtract 50% of Total Amendment Fee					
TOTAL ADDITIONAL FEE DUE FOR THIS AMENDMENT					0.00


☐ A claim fee in the amount of \$\_\_\_\_\_ is enclosed.

☐ Charge \$\_\_\_\_\_ to Deposit Account No. 02-4800.

The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By:   
Deborah H. Yellin  
Registration No. 45,904

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(703) 836-6620

Date: September 20, 2002



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In re Patent Application of:

Monika LUSKY *et al.*

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) Confirmation No.: 7808  
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#11

**REPLY TO REQUIREMENT FOR RESTRICTION**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

This Response to Restriction Requirement is in complete response to the Official Action (Restriction Requirement) mailed on August 20, 2002.

Applicants hereby elect, with traverse, Group I (claims 1-30 and 32-33) which are drawn to methods of preparing a stock of a minimal adenoviral vector, the viral stock obtained and a host cell comprising the viral stock.

Applicants traverse the election for at least the following reasons. M.P.E.P. § 803 states that an application may be properly restricted to one or more claimed inventions only if (1) the inventions are independent or distinct as claimed, and (2) there is a serious burden on the Examiner if the restriction is not required. Thus, even if appropriate reasons exist for requiring restriction, such a restriction should not be made unless there is an undue burden on the Examiner to examine all of the claims in a single application.

The Restriction Requirements states that the inventions of Groups I and II are related as product and process of use, but that the adenoviral genome of Group II can be used as a substrate for construction of adenoviral gene transfer vectors via recombinant DNA technology. The Restriction Requirement further states that the pharmaceutical composition claims of Group III are different from Group I, which are not pharmaceutical, and Group II, as the inventions of Groups II and III are unrelated.

However, Applicants submit that a search and examination involved for these groups would substantially overlap. For example, the claims of Group II are drawn to an animal virus genome comprising portions of the 5' and 3' ITRs obtained from a human adenovirus which Group I is directed to methods of preparing a stock of a minimal adenoviral vector, the viral stock obtained and a host cell comprising the viral stock. The genome claimed in Group II can be used in the methods of Group I to obtain the adenoviral stock. Accordingly, it would not impose a serious burden on the Examiner to examine all of the claims of these groups in a single application, at least with respect to Groups I and II.

Further, Applicants submit that Groups I-III contain the same or corresponding special technical feature of being derived from or relating to the same chimeric adenoviral vector. Specifically, all of the present claims relate to an adenoviral vector which is a chimera of human and animal adenoviruses. Accordingly, it would seem that the groups are linked by the same special technical feature.

Accordingly, for at least all of the reasons set forth above, withdrawal of the requirement for restriction is requested and believed to be in order. Further and favorable consideration of all the claims of record on the merits is respectfully requested.


In the event that there are any questions relating to this Reply to Restriction Requirement, or the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that prosecution of this application may be expedited.

Application No. 09/867,475  
Attorney's Docket No. 017753-146

Should the Examiner have any questions in regard to the foregoing, or any helpful suggestions, a telephone call to the undersigned would be appreciated.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By:   
Deborah H. Yellin  
Registration No. 45,904

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
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Date: September 20, 2002